

(113) Q: No. 6, once again, from what I understand (16) from you it would be correct for me to say that you (17) don't have any of the items in No. 6 because you have (18) never had any correspondence with Gerard Pick, (19) correct?

(20) A: That's correct.

(21) Q: No. 7, Frank Vito DeMarzo, Frank DeMarzo, (22) and/or CalComm Communications. Do you know who any of (23) those entities are?

(24) A: No.

(25) Q: Ever heard of them before?

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(1) A: No.

(2) Q: Have you ever had any kind of (3) correspondence with them at all?

(4) A: No.

(5) Q: No. 8, do you have any correspondence, (6) letters, cards, or other things that are responsive to (7) this No. 8 from any third parties, including (8) governmental agencies, such as the FCC or others?

(9) A: No.

(10) Q: No. 9, do you have any correspondence, (11) letters, cards or anything else that is responsive to (12) No. 9 that relates to James Kay?

(13) A: No.

(14) Q: You know who James Kay is, though, (15) correct?

(16) A: Yes.

(17) Q: How do you know James Kay?

(18) A: His name has been mentioned at Carrier (19) and then you just introduced him to me.

(20) Q: Okay. So you don't have any of the (21) documents in No. 9; is that correct?

(22) A: Correct.

(23) Q: Have you at any point in time had any of (24) these documents?

(25) A: No.

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(1) Q: As far as you know, then, no documents (2) responsive to No. 9 ever existed; is that correct?

(3) A: That's correct.

(4) Q: Does that go for communications with the (5) FCC?

(6) A: That's correct.

(7) Q: You don't know whether -- you are not (8) aware of any documents responsive to No. 8 ever having (9) existed; is that correct?

(10) A: That's correct.

(11) Q: No. 10, are you aware of any documents (12) that are responsive to No. 10 ever having existed?

(13) A: I am not aware of any of those documents.

(14) Q: No. 11, are you aware of any documents (15) responsive to No. 11 as having ever existed?

(16) A: No.

(17) Q: No. 12, are you aware of the existence of (18) any documents at any point in time responsive to No. (19) 12?

(20) A: No.

(21) Q: No. 13, are you aware of the existence of (22) any documents?

(23) A: No.

(24) Q: So as far as you know, there are no (25) documents ever in existence that regard contacts that

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(1) you made with Harold Pick, Annedore Pick, Gerard Pick (2) or any of the businesses such as Computer Consultants (3) & Systems, Communications Consultants & Systems (4) Century Communications or Charlet Communication & (5) Systems?

(6) A: I am not aware of any documents.

(7) Q: Have you had any -- have you made any (8) contacts with any of those entities, to your (9) knowledge?

(10) A: No.

(11) Q: No. 14, are you aware of the existence of (12) any documents at any point in time that are responsive (13) to No. 14?

(14) A: I am not aware of any documents.

(15) Q: Once again, is that because you don't (16) know who Frank Vito DeMarzo or CalComm Communications (17) is?

(18) A: I have no idea who that man is.

(19) Q: And the same is true for CalComm (20) Communications?

(21) A: That's correct.

(22) Q: No. 15, are you aware of any documents (23) having existed at any point in time that are (24) responsive to No. 15?

(25) A: I am not aware of any of those

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(1) documents.

(2) Q: Are you aware of any documents responsive (3) to No. 16?

(4) A: That would be my permanent telephone (5) records?

(6) Q: Uh-huh.

(7) A: My husband pays our bills out of the (8) office. I don't have any access to the records.

(9) Q: No. 17, do you have any records showing (10) the ownership of Carrier Communications?

(11) A: No, I do not.

(12) Q: Is that, once again, because your husband (13) is in charge of those records?

(14) A: That's correct.

(15) Q: With regard to 16 and 17, did you ask (16) your husband to give you those records?

(17) A: No, I did not.

(18) Q: Talked to him at all about that subpoena?

(19) A: Yes, I talk to him about the subpoena.

(20) Q: Did you show it to him and say, "I need (21) to produce the residential phone records"?

(22) A: No, I did not show it to him.

(23) Q: Do you have any discussion with him about (24) the phone records or the records of ownership?

(25) A: I just said, "I don't have those records"

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(1) and he says, "Well, they are at my office." He has (2) been out of town so I don't have access to the (3) records.

(4) Q: How long has he been out of town?

(5) A: Oh, he has been -- He has been out a lot (6) since the beginning of summer. This recent one has (7) been several weeks. I have not kept track, you know, (8) he is gone a lot.

(9) Q: Do you have access to the business (10) premises?

(11) A: During the day when the employees are (12) there, but I don't have a key to the office.

(13) Q: You can go in when the employees are (14) there; is that correct?

(15) A: Yes.

(16) Q: As far as it goes with regard to these (17) types of records in 16 and 17, are those telephones -- (18) for instance, in No. 16, are those telephones in you (19) and your husband's name?

(20) A: Actually, I don't know because I never see (21) the bill.

(22) Q: Do you know if your name appears on the (23) records of ownership for Carrier Communications at (24) all?

(25) A: It does not.

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(1) Q: So as far as you know, the only place (2) your name appears with regard to Carrier (3) Communications is on the one FCC license?

(4) A: That's correct.

(5) Q: Carrier Communications uses that license (6) in the business; is that correct?

(7) A: I don't know.

(8) Q: Do you know if Carrier Communications is (9) a corporation, a partnership, or what type of business (10) entity it is?

(11) A: I know that he is incorporating it. (12) Whether it has been incorporated yet or not, I don't (13) know.

(14) Q: I understand your husband Chris Killian (15) is also an L.A. Sheriff's reserve officer; is that (16) true?

(17) A: Not anymore. He is retired.

(18) Q: He was at one time?

(19) A: Uh-huh.

(20) Q: Is that a "yes"?

(21) A: Yes.

(22) Q: Don't worry. I told you everybody does (23) it. Relax. This is not the Spanish inquisition.

(24) So would it be fair for me to say, then, (25) that you know of the existence of Harold Pick, but

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(1) have you ever met him?

(2) A: You know, I think I was introduced to him (3) at a TCW swap meet back in the early '80s. That's the (4) only recollection I ever have of ever meeting him.

(5) Q: You have never met any of the other Pick (6) family members, to your knowledge, have you?

(7) A: No, not to my knowledge.

(8) Q: Never met any of Harold Pick's rats?

(9) A: Rats? No.

(10) Q: Just curious. It is an important thing (11) in his life. You have never been to Harold Pick's (12) home, have you?

(13) A: No.

(14) Q: I didn't think so or you would know his (15) pet rats. As far as it goes, I understand you have (16) had no formal training in the radio industry; is that (17) correct?

(18) A: That's correct.

(19) Q: As far as the hands-on operation of (20) Carrier Communications goes with regard to radio, you (21) don't really have any interaction with the pieces of (22) gear, hardware, software, do you?

(23) A: I have no involvement.

(24) Q: No involvement with Carrier (25) Communications at all?

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(1) A: No, other than on occasion I have to sign (2) my name on checks when my husband is out of town.

(3) Q: So you are authorized to sign on the (4) company checking account?

(5) A: Yes.

(6) Q: If your husband so directs you, you do?

(7) A: That's correct.

(8) Q: So you have never read of any of the FCC (9) rules, you don't keep around the FCC rule book or (10) anything like that?

(11) A: No, I do not.

(12) Q: Do you ever go into the business at all (13) to help out when someone is sick or anything like (14) that?

(15) A: I have not since 1989.

(16) Q: So then it would be correct for me to (17) state that have you not done any work for Carrier (18) Communications, with the exception of occasionally (19) signing a check, since 1989, true?

(20) A: Yes, I would say that if I am in the (21) office and the phone rings, I will answer it if no one (22) is there. If no one is right at the location, I will (23) answer the phone, but I have not gone in and done work (24) for Carrier since I left in '89.

(25) Q: Did you ever since then -- and I mean

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(1) even from home -- make any phone calls for business (2) purposes on behalf of Carrier Communications from 1989 (3) to the present?

(4) A: No, not to my recollection. I don't (5) believe I have.

(6) Q: What I am talking about, you probably (7) remember if you had made sales calls, for instance?

(8) A: Oh, yes. No, I did not do that. I never (9) have.

(10) Q: If you were given a list of potential (11) customers to contact for any reason, you would (12) remember if you had gone down the list and made a (13) bunch of phone calls, is that true?

(14) A: I would remember that, yes.

(15) Q: You did not do any of that since 1989 at (16) least?

(17) A: No.

(18) Q: It came out backwards on the record. (19) Since 1989, have you made any calls like that of a (20) sales nature and going down a list of customers?

(21) A: No.

(22) Q: Do you know if there is anyone else named (23) Deborah or Debbie or any variant thereof that works (24) for Carrier?

(25) A: Yes, there is a Deborah Whiting.

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(1) Q: What is Deborah's position at Carrier (2) Communications, to the best of your knowledge?

(3) A: To the best of my knowledge, she is a (4) front office receptionist and she coordinates -- put (5) together the sales information given to our companies (6) by various radio companies for our salespeople.

(7) Q: Do you know if she is involved in sales (8) at all?

(9) A: I don't know.

(10) Q: Do you know how long she was employed at (11) carrier?

(12) A: I do believe that she was employed (13) shortly after I left in '89. Exactly when, I do not (14) know. I know that she left for maternity leave (15) around -- well, it would be the summer of '92. (16) When she came back, I do not know, but yes, she is (17) back. She is back.

(18) Q: What college are you going to, by the (19) way?

(20) A: I am in the California State Bakersfield (21) program.

(22) Q: Do you know the Dorings at all, Jim (23) Doring?

(24) A: I have heard his name mentioned. I do (25) not know him.

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(1) Q: Can't recall ever having met him?

(2) A: Never have met him.

(3) Q: Linda Doring?

(4) A: I don't know who that is.

(5) Q: Charles Doring?

(6) A: I do not know Charles Doring, who he is.

(7) MR. CRAWFORD: We will go off the record for a (8) minute. I am going to have a little chat with my (9) client.

(10) (Recess)

(11) BY MR. CRAWFORD:

(12) Q: Let's see now. The radio station that we (13) have discussed earlier that is in your name, do you (14) know if anybody manages that particular station?

(15) A: I know nothing about that.

(16) Q: Is you don't know who it is that manages (17) it, correct?

(18) A: That's correct.

(19) Q: You don't know whether or not it is (20) pursuant to a written contract or oral contract; is (21) that correct?

(22) A: That's correct.

(23) Q: You don't know even where the contract (24) is, correct?

(25) A: That's correct.

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(1) Q: You don't know whether or not a contract (2) at all exists; is that correct?

(3) A: That's correct.

(4) Q: Who would know these things?

(5) A: I would imagine my husband, Chris.

(6) Q: If somebody was in possession of any (7) contracts about that particular station and knew where (8) the documents would be, it would be Chris?

(9) A: Chris.

(10) Q: I would imagine from what you know that (11) with regard to that particular station, you don't know (12) whether

It has been constructed, when it has been (13) operated, or any of the details of it?

(14) A: I know no details about it, no.

(15) Q: You don't know whether it has been (16) constructed?

(17) A: I don't know.

(18) Q: You don't know whether or not it is (19) operating; is that correct?

(20) A: That's correct.

(21) Q: What do you know about my client James (22) Kay?

(23) A: I know through the subpoena that he and (24) Harold Pick have some kind of action against each (25) other. What I don't know.

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(1) Q: That is correct.

(2) A: I know that he has a communications (3) company in Los Angeles.

(4) Q: Do you know the name of it?

(5) A: No.

(6) Q: Lucky's Two-Way Radios, the other is (7) Southland Communications. Those are his two business (8) entities as well as the work he does in his own name (9) as James Kay. Have you ever heard anything about (10) either of those two companies, Lucky's or Southland?

(11) A: No.

(12) Q: What have you heard about James Kay, if (13) anything?

(14) A: Just that he is in the communications (15) business in Los Angeles.

(16) Q: Is that all?

(17) A: That's all.

(18) Q: Do you recall being served with the (19) subpoena for this particular deposition?

(20) A: Yes.

(21) Q: Do you recall making any statements to (22) the process server at that time when you were given (23) the subpoena? Do you recall saying anything?

(24) A: I don't recall, no.

(25) Q: It was you that received the subpoena.

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(1) though; is that correct?

(2) A: That's correct.

(3) Q: Was it on or about July 21 of 1996 that (4) you were served?

(5) A: July 21, no.

(6) Q: Do you recall speaking with the process (7) server on or about July 25, 1996 with regard to a (8) subpoena for your husband?

(9) A: I don't know -- I have come across her (10) several times. Whether it was July 21 or not, I don't (11) know.

(12) Q: But does the name Patsy Telles mean (13) anything to you, the process server?

(14) A: No.

(15) Q: But it was a female process server?

(16) A: Yes.

(17) Q: I am going to show a declaration that (18) Patsy Telles provided and just ask you some questions (19) about it. Here. Have a copy.

(20) A: I don't recall statement No. 1. I recall (21) her telling me that other people she has served have (22) stated that to her.

(23) Q: Okay. How about statement No. 2?

(24) A: No. 2, I never made that statement. (25) Gerard Pick, is that Harold's father?

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(1) Q: I believe so.

(2) A: Okay.

(3) Q: That's my knowledge.

(4) A: I told her that I heard Harold Pick's (5) father died of a heart attack.

(6) Q: No. 3?

(7) A: No, I have never made that statement.

(8) Q: No. 4?

(9) A: I don't recall making that statement.

(10) Q: No. 5?

(11) A: No. What I have said to her is that it (12) is pretty convenient for my husband that he has had to (13) be away on construction a lot so he has not been able (14) to be served. That's what I stated to her.

(15) Q: Going back to No. 1, do you have any (16) knowledge from any source whatsoever that would lead (17) you to believe that Mr. Kay is a crook?

(18) A: No.

(19) Q: Do you have any information from any (20) source whatsoever that would lead you to believe --

(21) A: That he is a crook?

(22) Q: Right.

(23) A: No.

(24) Q: To your knowledge, has anyone ever told (25) you that Mr. Kay is a crook?

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(1) A: Not to my knowledge.

(2) Q: Do you have any information from any (3) source that indicates that James Kay caused the death (4) of Harold Pick's father, Gerard Pick?

(5) A: No.

(6) Q: Anybody ever told you that that you can (7) recall?

(8) A: No. I just -- my husband told me that (9) his dad died of a heart attack, and he has told me (10) that Harold Pick's been in a lot of, whatever, suits (11) with James Kay. But that is all I know.

(12) Q: So with regard to the topics here, (13) Nos. 1, 2, 3, 4 and 5 mentioned in this declaration of (14) Patsy Telles -- which we will make a copy of for the (15) court reporter and can be attached as next in order. I (16) believe this is Exhibit 2 to this deposition (17) transcript.

(18) With regard to these statements 1, 2, 3, (19) 4 and 5, the only information that you have that has (20) anything to do with them is the fact that Mr. Kay has (21) been involved in a lot of lawsuits with Harold Pick; (22) is that correct?

(23) A: That's correct.

(24) Q: Does your husband discuss Carrier (25) Communications business with you much at all?

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(1) A: Sometimes, but I would not say a lot.

(2) Q: Has he ever mentioned James Kay's name? (3) They are competitors, as I understand it?

(4) A: I know he is a competitor. I think maybe (5) Chris has had a salesman that has worked for James Kay (6) in the past, but no detail. I prefer not to know (7) anything because it gets in the way of marriage.

(8) Q: Do you know the name of that salesman?

(9) A: Lee? I don't remember his last name.

(10) Q: Lee Willard or Leland Willard?

(11) A: Lee Willard, yes.

(12) Q: Let me explain something to you. We have (13) information from other sources that indicate that (14) someone named Debbie made some phone calls and they (15) were of a business nature related to the radio (16) industry. After what you have said, I don't suspect (17) that it is you. However, it is our job to eliminate (18) witnesses by process of elimination.

(19) A: Sure.

(20) Q: Now, there are a limited number of ways (21) that we can do this. That's why we ask for telephone (22) records. We can look down and match up and see if any (23) of the numbers that were called by this individual are (24) on those telephone records. However, you don't have (25) those records with you today so it is hard for us to

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(1) completely eliminate you as a witness.

(2) Now, there are a couple of ways we might (3) be able. One is you could bring

them to us at another (4) time or we could get them from the telephone company, (5) which would require your authorization?

(6) A: Okay.

(7) Q: Is there any particular way that you (8) would like to do that?

(9) A: I don't know. I would imagine should (10) consult my attorney on how I should give you records.

(11) Q: My problem is that you are under a legal (12) obligation to produce the records, as your attorney (13) probably told you. You also have a legal obligation (14) to produce ones that you have reasonable access to. (15) You have testified that you have access to the (16) business location, the records and so forth and so on.

(17) A: No, I said I have access to the (18) business. I did not say I have access to the (19) records.

(20) Q: The records, as far as you know, are kept (21) at the business?

(22) A: I don't know where he stores records (23) leading back to January 1991.

(24) Q: I understand. My problem. I need to tie (25) up a loose end. We need to tie up the loose end and

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(1) we are done. There are a number of different ways (2) that we can do that. What we can do then is continue (3) the deposition. It is a legal formality because if I (4) terminate the deposition, that means I am done.

(5) A: Okay.

(6) Q: It means I don't get to go back on (7) anything. Obviously, if we get some records that have (8) a bunch of phone calls made from your place of (9) residence, for instance, or whatever it is, to the (10) numerous people that have told us that they received (11) these calls, then I would have an opportunity to (12) conduct further discovery on that and ask you about (13) those particular conversations and match it up with (14) what the other people have told us already.

(15) The situation effectively then is what we (16) will do is continue the deposition to an unspecified (17) date, and we will deal through your attorney with the (18) production of records in whatever way is most (19) convenient for all of the parties involved, I (20) suppose. You understand I don't really suspect that (21) you are the person that did it, it is just as an (22) attorney and this discovery is an investigative (23) process.

(24) A: Sure.

(25) Q: Which makes me kind of like one of those

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(1) little detective types, that I need to eliminate (2) certain people as suspects. That's a really easy way (3) for me to do it. I don't mean to abuse you or so (4) forth and so on. That is not at all my intent. So (5) with that, we will stipulate this is an agreement that (6) we are making. We will continue the deposition to a (7) date in the future that will be done through your (8) counsel.

(9) That is Patrick Delaney?

(10) A: That's correct.

(11) Q: We will take the matter up with regard to (12) the record production with Mr. Delaney prior to (13) contacting you in this. Now, he is not actually here (14) representing you and it is somewhat awkward when an (15) attorney is representing someone but yet they are not (16) here for them, for these agreements, but I will go (17) through him first and presumably we will be able to work (18) this out with him without me having to contact you (19) directly about it. Okay?

(20) A: Okay.

(21) MR. CRAWFORD: With that, the deposition may be (22) transcribed pursuant to code.

(23) (Discussion held off the record.)

(24) MR. CRAWFORD: After that brief discussion off (25) the record, we have made it very clear that the

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(1) deposition will be transcribed pursuant to Code, (2) which means after it is transcribed, the court (3) reporter's office will notify you and tell you when (4) you can come in and have a look at it, read it over, (5) sign it under penalty of perjury, make any changes, (6) and so forth and so on. Okay?

(7) THE WITNESS: Okay.

(8) MR. CRAWFORD: With that, we are done for now.

(9) (Plaintiff's Exhibit 2 was marked (10) for identification by the reporter (11) and is attached hereto.)

(12) (Ending time 1:08 p.m.)

(13) I DECLARE UNDER PENALTY OF PERJURY THAT

(14) THE FOREGOING IS TRUE AND CORRECT.

(15) SUBSCRIBED AT _____

(16) CALIFORNIA, THIS DAY OF _____, 19____

(17) WITNESS

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ATTACHMENT NO. 4



Nextel Communications, Inc.
1505 Farm Credit Drive
McLean, VA 22102
703 394-3000 FAX 703 394-3001

November 5, 1996

VIA FEDERAL EXPRESS

Federal Communications Commission
800 Megahertz Services
P.O. Box 358750
Pittsburgh, PA 15251-5750

Re: Application for Assignment from Carrier Communications and Electronics
to Smart SMR of California, Inc.

SMR Station WNJA 839, Palmdale, CA
SMR Station WPCM 497, Bakersfield, CA
SMR Station WPDV 904, Indio, CA

Dear Sir or Madam:

Filed herewith, on behalf of Carrier Communications and Electronics and Smart SMR of California, Inc., a wholly owned subsidiary of Nextel Communications, Inc., is an FCC Form 490 application for assignment of the above-referenced licenses. Also enclosed is a check totaling \$[REDACTED] as payment of the required filing fees.

Any questions concerning the above matter should be addressed to this office.

Respectfully submitted,

James B. Goldstein
Assistant Regulatory Counsel

Enclosures
111FCCtr.DOC

Application for Assignment of Authorization
or Consent to Transfer of Control of LicenseeCommercial Mobile Radio Services
Rural Radiotelephone ServiceFCC RECEIVED NOV 06 1996
FCC Use Only

FILING FEE

(a) Fee Type Code	(b) Fee Multiple	(c) Fee Due for Fee Type Code in (a)	(d) Total Amount Due	FCC Use Only
PALM	3	\$ [REDACTED]	\$ [REDACTED]	

ASSIGNOR OR TRANSFEROR

T1. Name of Assignor or Transferor Carrier Communications and Electronics		T2. Voice Telephone Number (805) 945-5448	
T3. Assumed Name Used for Doing Business (if any)		T4. Fax Telephone Number (805) 949-7790	
T5. Mailing Street Address or P.O. Box 42326 10 th Street West			
T6. City Lancaster		T7. State CA	T8. Zip Code 93534
T9. Name of Contact Representative (if other than Assignor or Transferor)		T10. Voice Telephone Number	
T11. Firm or Company Name		T12. Fax Telephone Number	
T13. Mailing Street Address or P.O. Box			
T14. City		T15. State	T16. Zip Code

TYPE OF TRANSACTION

T17. This application requests (A) <u>Assignment of authorization</u> <u>Consent to Transfer of Control of Licensee</u>
T18. How will assignment or transfer of control be accomplished? (S) <u>Sale</u> or other transfer or assignment of stock <u>Other</u>
T19. This assignment of authorization or transfer of control of licensee is (V) <u>Voluntary</u> <u>Involuntary</u>
T20. Will this be a <u>pro forma</u> assignment or transfer of control? (N) <u>Yes</u> <u>No</u>
T21. Is local or state authorization required for this assignment or transfer of control? (N) <u>Yes</u> <u>No</u>

AUTHORIZATION(S) TO BE ASSIGNED OR TRANSFERRED

[illegible]

ASSIGNMENT OF STOCI

Stock	Number of Shares	Classification
Shares to be transferred	T27.	T28.
Shares issued and outstanding	T29.	T30.
Shares authorized	T31.	T32.

ASSIGNEE OR TRANSFEREE

T33. Name of Assignee or Transferee Smart SMR of California, Inc.		T34. Voice Telephone Number (703) 394-3000	
T35. Assumed Name Used for Doing Business (if any) Nextel Communications		T36. Fax Telephone Number (703) 394-3001	
T37. Mailing Street Address or P.O. Box 1505 Farm Credit Drive			
T38. City McLean		T39. State VA	T40. Zip Code 22102

NEW LICENSEE INFORMATION

T41. Legal Name of Licensee Smart SMR of California, Inc.		T42. Voice Telephone Number (703) 394-3000	
T43. Assumed Name Used for Doing Business (if any) Nextel Communications		T44. Fax Telephone Number (703) 394-3001	
T45. Mailing Street Address or P.O. Box 1505 Farm Credit Drive			
T46. City McLean		T47. State VA	T48. Zip Code 22102

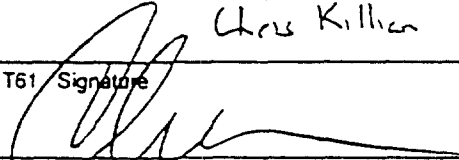
ALIEN OWNERSHIP

T49. Is the assignee or transferee a foreign government or the representative of any foreign government?	(N) <u>Yes</u> <u>No</u>
T50. Is the assignee or transferee an alien or the representative of an alien?	(N) <u>Yes</u> <u>No</u>
T51. Is the assignee or transferee a corporation organized under the laws of any foreign government?	(N) <u>Yes</u> <u>No</u>
T52. Is the assignee or transferee a corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?	(N) <u>Yes</u> <u>No</u>
T53. Is the assignee or transferee a corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country? <small>* If "yes", attach exhibit explaining nature and extent of alien or foreign ownership or control.</small>	(N) <u>Yes</u> <u>No</u>

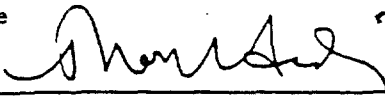
BASIC QUALIFICATIONS

<p>T54. Has the assignor or transferor, assignee or transferee, or any party to this application had any FCC station authorization, license or construction permit revoked or had any application for an initial, modification or renewal of FCC station authorization, license, construction permit denied by the Commission?</p>	<p>(Y) Yes No See Exhibit 1</p>
<p>T55. Has the assignor or transferor, assignee or transferee, or any party to this application, or any party directly or indirectly controlling the assignor or transferor, assignee or transferee, or any party to this application ever been convicted of a felony by any state or federal court?</p>	<p>(N) Yes No</p>
<p>T56. Has any court finally adjudged the assignor or transferor, assignee or transferee, or any party to this application, or any person directly or indirectly controlling the assignor or transferor, assignee or transferee, or any party to this application, guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement or any other means or unfair methods of competition?</p>	<p>(N) Yes No</p>
<p>T57. Is the assignor or transferor, assignee or transferee, or any party to this application, or any person directly or indirectly controlling the assignor or transferor, assignee or transferee, or any party to this application, currently a party in any pending matter referred to in the preceding two items?</p>	<p>(N) Yes No</p>
<p>T58. Do the undersigned each certify (by responding "Y" to this question) that neither the assignor or transferor nor the assignee or transferee is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance? - See 47 CFR 1.2002(b) for the meaning of "party to the application" for these purposes.</p>	<p>(Y) Yes No</p>

ASSIGNOR OR TRANSFEROR CERTIFICATION

<p>The ASSIGNOR or TRANSFEROR represents that the authorization will not be assigned or that control of the licensee will not be transferred unless and until the consent of the Federal Communications Commission has been given; that all exhibits attached or referenced herein are a material part hereof and are incorporated herein as if set out in full in this application; and that all statements made in this application are true, complete and correct to the best of his or her knowledge and belief.</p>	
<p>T59. Typed Name of Person Signing <i>Chris Killian</i></p>	<p>T60. Title <i>Owner</i></p>
<p>T61. Signature </p>	<p>T62. Date <i>9-13-96</i></p>

ASSIGNEE OR TRANSFeree CERTIFICATION

<p>The ASSIGNEE or TRANSFeree waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise. The assignee or transferee certifies that grant of this assignment or transfer of control would not cause the assignee or transferee to be in violation of the spectrum aggregation limit in 47 CFR Part 20. The assignee or transferee agrees to assume all obligations and abide by all conditions imposed upon the assignor or transferor under the subject authorization(s), unless the Federal Communications Commission pursuant to a request made herein otherwise allows, except for liability for any act done by, or any right accrued by, or any suit or proceeding had or commenced against, the assignor or transferor prior to this assignment or transfer of control. The undersigned, individually and for the assignee or transferee, hereby certifies that the statements made herein are true, complete and correct to the best of his or her knowledge and belief, and are made in good faith.</p>	
<p>T63. The assignee or transferee is a (an) () Individual Unincorporated Association Partnership Corporation</p>	
<p>T64. Typed Name of Person Signing</p>	<p>T65. Title</p>
<p>T66. Signature </p>	<p>T67. Date <i>11/4/96</i></p>
<p>WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).</p>	

DISMISSALS AND REVOCATIONS

In Response to FCC Form 490, Item T54, Assignor has received FCC dismissals or revocations for clerical or administrative reasons, such as late filing of applications or subsequent changes in FCC Rules which caused applications to become invalid after their filing. Assignee hereby provides the circumstances of various insignificant dismissals of applications filed by Assignee and/or its affiliates.

Assignee holds many FCC licenses, primarily for Specialized Mobile Radio ("SMR") systems with an estimated several hundred channels in its area of operation. From time to time, an application associated with one of these facilities may be dismissed by the Commission, typically for technical reasons such as a mistake in calculating the SMR interference protection standards set forth in Sections 90.621(b) of the Commission's Rules. To the best of Assignee's knowledge after thorough inquiry, however, none of the above-referenced dismissals were based on a character issue as defined by the Commission's Rules and policies. Therefore, the Commission should find that Assignee has the requisite basic qualifications to be awarded a grant of the instant application.

ATTACHMENT NO. 5

RADIO STATION LICENSE

Licensee Name: SMART SMR OF CALIFORNIA INC

DBA NEXTEL COMMUNICATIONS

Radio Service: GX CONVENTIONAL SMR

Call Sign: WPCM497

File Number: 9301618165

License Issue Date: 02/25/1997

License Expiration Date: 08/09/1998

Frequency Advisory No./Service Area: 923080043

Pages -*****

970225A 557 1 1Z

SMART SMR OF CALIFORNIA INC DBA
NEXTEL COMMUNICATIONS
1505 FARM CREDIT DR
MC LEAN VA 22102

REGULATORY STATUS: CMRS

Station Technical Specifications

FCC I.D.	Frequencies (MHz)	Station Class	No. of Units	Emission Designator	Output Power (Watts)	E.R.P. (Watts)	Ground Eleva	Ant. Hgt. To Tip	Antenna Latitude	Antenna Longitude
A:	851.23750	FB2C	1	20K0F3E	60.000	156.000	1074	37	35-26-20	118-44-23
							HAAT	377		
	854.16250	FB2C	1	20K0F3E	60.000	156.000		37		
	806.00000	MO	71	20K0F3E	35.000	35.000				
	821.00000									
TRANSMITTER STREET ADDRESS						CITY		COUNTY		STATE
A: MOUNT ADALAIDE						BAKERSFIELD		KERN		CA
AREA OF OPERATION										
SITE A: 113 KMRA 35-26-20N 118-44-23W BAKERSFIELD KERN CA										
CONTROL POINTS: 1505 FARM CREDIT DR MC LEAN VA										
CONTROL POINT PHONE: 703-394-3000										
STATION CLASS SUFFIX C = INTERCONNECT										
STATION CLASS SUFFIX J = TEMPORARY WITH INTERCONNECT										
STATION CLASS SUFFIX K = STAND-BY WITH INTERCONNECT										
STATION CLASS SUFFIX L = ITINERANT WITH INTERCONNECT										
The latitude/longitude are authorized in North American Datum 1927 (NAD27). Additionally, the antenna height to tip, ground elevation, AAT and area of operation units are authorized in metric.										
EMISSION DESIGNATOR(S) CONVERTED TO CONFORM TO DESIGNATOR(S)										
SET OUT IN PART 2 OF THE COMMISSION'S RULES.										

PAGE 1 OF 1



FEDERAL
COMMUNICATIONS
COMMISSION

This authorization becomes invalid and must be returned to the Commission if the stations are not placed in operation within eight months, unless an extension of time has been granted. EXCEPTIONS: 1) 800 MHz trunked and certain 900 MHz station licenses cancel automatically if not constructed within 1 year 2) IVDS authorizations automatically cancel if service is not made available in accordance with Section 95.833(a) of the Commission's Rules 3) There are no time limitations for placing GMRS stations in operation.

ATTACHMENT NO. 6

Federal Communications Commission

Wireless Telecommunications Bureau - Office of Operations

1270 Fairfield Road

Gettysburg, PA 17325-7245

SEP 04 1996

In reply refer to:
96F215

VIA REGULAR AND CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

George S. Gillam
Applied Technology Group, Inc.
4440 Easton Drive
Bakersfield, CA 93309

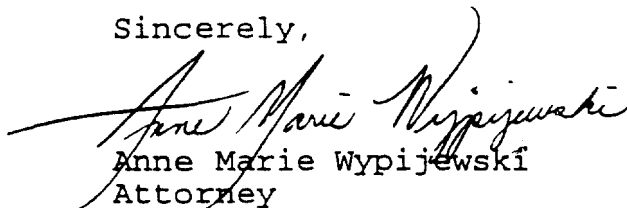
Re: Finder's Preference Request
Station WPCM497
File No. 96F215

Dear Mr. Gillam:

The above referenced finder's preference request targeting Station WPCM497 is dismissed as untimely.

You filed your finder's preference request targeting Station WPCM497 on June 20, 1996. The Commission eliminated the finder's preference program for frequencies in the 800 MHz SMR Service as of December 15, 1995. See, Report and Order, PR Docket No. 93-144, 11 FCC Rcd 1463 (1995) (para. 416).

Sincerely,



Anne Marie Wypijewski
Attorney

Office of Operations - Gettysburg

cc: Carrier Communications
E.F. Johnson Company

FINDER'S PREFERENCE PROGRAM

Case Tracking

Case Number: 96F215

Finder: Applied Technology Group, Inc.

Target: Carrier Communications

Call Sign: WPCM497

Radio Service: GX

Date FPR Filed: 6/20/96

Purge/Date Code Entered:

Station Type:

*Conventional SMR- cannot file finders
against SMR licenses.
7-8-96
Jen*

3060-0581
Expires 2/29

PAGE NO. 1 OF 1

SPECIAL USE

FCC USE ONLY

PAYOR INFORMATION

(2) TOTAL AMOUNT PAID: dollars and cent

250 00

(8) ZIP CODE 17325

(10) COUNTRY CODE (if not U.S.A.)

FCC USE ONLY

(16A) FEE DUE FOR
PAYMENT TYPE CODE
IN BLOCK 14
\$ 250

P	D	X	M
---	---	---	---

(18A) FCC CODE 2

(21A) CITY STATE OR COUNTRY CODE

Bakersfield, Ca.

FCC USE ONLY	
--------------	--

16B) FEE DUE FOR
PAYMENT TYPE COD
IN BLOCK 14
S

18B, FCC CODE 2

(21B) CITY, STATE OR COUNTRY CODE

EXPIRATION DATE:

--	--

Month Year

AUTHORIZED SIGNATURE

DATE _____



APPLIED TECHNOLOGY GROUP INC.

PERSONAL COMMUNICATIONS SERVICES

4440 Easton Drive
Bakersfield, CA 93309
(805) 322-8650
(805) 322-4060 FAX

June 18, 1996

Federal Communications Commission
Gettysburg PA 17325

RE: Request for Finder's Preference

Gentlemen:

Pursuant to Section 90.173(k) of the Federal Communications Commission's Rules, Applied Technology Group, Inc. hereby requests the award of a Finder's Preference for the use of the frequencies 851.2375 MHZ and 854.1625 MHZ in the Bakersfield California area.

The evidence supporting this request is as follows. The target licensee is Carrier Communications, call sign WPCM497 with the licensed transmitter location at:

Mount Adelaide, Bakersfield Kern, CA
35-26-20/118-44-23

The license was granted on August 9, 1993, and was due for construction no later than August 9, 1994. Pursuant to Rule Section 90.633 (d) and 90.631 (e), construction of these facilities have not met the construction date at the licensed location. The appropriate time 180 days after the final construction date has passed, thus a timely filing is allowed.

Enclosed is a letter from Maple Leaf Communications, manager of the Mt. Adelaide, Bakersfield CA site that the system was to be constructed and have not been placed in operation per the appropriate rules. We have also monitored the above listed channels for over eight months and there has been no activity or station identification. The absence of activity confirms that the system is not in operation in this area.

For all of the foregoing reasons, we request the Commission to determine that Carrier Communications is in non-compliance and the awarding of the above mentioned frequencies should be made to Applied Technology Group.

I declare, under penalty of perjury that the foregoing is true and correct. Executed on June 18, 1996.

George S. Gillam

MAPLE LEAF COMMUNICATIONS
4580 State Rd.
Bakersfield, CA 93308

6-13-86

GEORGE -

WE HAVE NO RECORD OF THE
FOLLOWING FREQ. INSTALLED ON
MT. ADELAIDE

1. 852.1875
2. 852.7625
3. 852.9875
4. 853.3375
5. 853.3625
6. 853.5375
7. 853.8125
8. 854.0375
9. 854.1625
10. 854.3875
11. 851.2375

C. Neufeld

RADIO STATION LICENSE

Licensee Name: CARRIER COMMUNICATIONS

Radio Service: GX CONVENTIONAL SMR

License Issue Date: 930809

Call Sign: WPCM497

File Number: 9301618165

License Expiration Date: 980809

Frequency Advisory No: 923080043

Number of Mobiles by Category: Vehicular - **71** Portable -*****Aircraft -*****Marine -*****Pagers*****

930809N 692 1 12

CARRIER COMMUNICATIONS

LICENSING SECTION

42326 10TH ST W

LANCASTER

CA

93534

Station Technical Specifications

FCC I.D.	Frequencies (MHz)	Station Class	No. of Units	Emission Designator	Output Power (Watts)	E.R.P. (Watts)	Ground Eleva	Ant. Hgt. To Tip	Antenna Latitude	Antenna Longitude
1:	851.23750	FB2C	1	20K0F3E	60.000	156.000	3525	120	35-26-20	118-44-23
								HAAT	1238	

854.16250 FB2C 1 20K0F3E 60.000 156.000
806.00000-MO 71 20K0F3E 35.000 35.000
821.00000

TRANSMITTER STREET ADDRESS

CITY

COUNTY

STATE

1: MOUNT ADALAIDE

BAKERSFIELD

KERN

CA

AREA OF OPERATION

SITE 1: 70 MIRA 35-26-20N 118-44-23W BAKERSFIELD KERN CA

CONTROL POINTS: 42326 10TH ST W LANCASTER CA: ASSOCIATED CONTROLS AND MOBILES
OPERATING UNDER THIS AUTHORIZATION AND LICENSED TO USERS OF THIS SMR FACILITY

CONTROL POINT PHONE: 805-945-5448

STATION CLASS SUFFIX C = INTERCONNECT

STATION CLASS SUFFIX J = TEMPORARY WITH INTERCONNECT

STATION CLASS SUFFIX K = STAND-BY WITH INTERCONNECT

STATION CLASS SUFFIX L = ITINERANT WITH INTERCONNECT

EMISSION DESIGNATOR(S) CONVERTED TO CONFORM TO DESIGNATOR(S)
SET OUT IN PART 2 OF THE COMMISSION'S RULES.

PAGE 1 OF 1

FEDERAL
COMMUNICATIONS
COMMISSION

This authorization becomes invalid and must be returned to the Commission if the stations are not placed in operation within eight months, unless an extension of time has been granted. EXCEPTION: 800 MHz trunked and certain 900 MHz station licenses cancel automatically if not constructed within one year.

P 020 156 723


**Re pt for
Certified Mail**

 No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

Sent to <i>George S. Gillam</i>	
Street and No. <i>4440 Easton Drive</i>	
P.O., State and ZIP Code <i>Bakersfield CA 93309</i>	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery	
Return Receipt (Showing to Whom & Date Delivered)	
Return Receipt (Showing to Whom, Date, and Addressee's Address)	
TOTAL Postage & Fees	\$ <i>1.90</i>
Postmaster <i>7/13/96</i>	

PS Form 3811, June 1991

 Federal Communications Commission
Harrisburg, Pennsylvania 17325

90F215

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
George S. Gillam
Applied Technology Group, Inc.
4440 Easton Drive
Bakersfield, CA 93309
4a. Article Number*P 020 156 723***4b. Service Type**

- | | |
|---|---|
| <input type="checkbox"/> Registered | <input checked="" type="checkbox"/> Certified |
| <input type="checkbox"/> Express Mail | <input type="checkbox"/> Insured |
| <input type="checkbox"/> Return Receipt for Merchandise | <input type="checkbox"/> COD |

7. Date of Delivery*7/13/96***5. Received By: (Print Name)****6. Signature: (Addressee or Agent)**
 X *G. S. Gillam*
8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

6. Save this receipt and present it if you make inquiry. 102595-93-Z-0478

05240 18:29

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

● Print your name, address, and ZIP Code in this box ●

Federal Communications
Gettysburg, Pennsylvania

REC'D 1996
RECEIVED
17325 CC
GETTYSBURG

THE UNIVERSITY OF CHICAGO

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of October, 1997, I have caused copies of the foregoing *Petition to Dismiss or Deny* to be sent by first class United States mail, postage prepaid, except as otherwise indicated below, to the following:

**CHRIS KILLIAN
CARRIER COMMUNICATIONS
42326 TENTH ST W
LANCASTER CA 93534**

**DEBORAH KILLIAN
C/O CHRIS KILLIAN
42326 TENTH ST W
LANCASTER CA 93534**

**NEXTEL COMMUNICATIONS INC
SMART SMR OF CALIFORNIA INC
1505 FARM CREDIT DR
MC LEAN VA 22102**

* **WILLIAM H KNOWLES-KELLTT ESQ
GETTYSBURG OFFICE OF OPERATIONS
FEDERAL COMMUNICATIONS COMMISSION
1270 FAIRFIELD RD
GETTYSBURG PA 17325-7245**


Robert J. Keller
Counsel for Petitioner

**ROBERT J. KELLER, P.C.
4200 WISCONSIN AVE NW # 106-233
WASHINGTON DC 20016-2143**

Telephone: 301-320-5355
Facsimile: 301-229-6875
Email: rjk@telcomlaw.com

- * Pleading (w/out attachments) sent via facsimile; full filing sent via mail.

RECEIVED

DEC 1 - 1997

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of]	
]	
NEXTEL COMMUNICATIONS,]	FCC File No. 9301618165
SMART SMR OF CALIFORNIA, INC., D/B/A]	
]	
Conventional SMR (GX) Station WPCM497]	
851.2375 and 854.1625 MHz at Mount]	
Adalaide near Bakersfield (Kern) CA]	
]	
CARRIER COMMUNICATIONS]	FCC File No. 9301618165
]	
Conventional SMR (GX) Station WPCM497]	
851.2375 and 854.1625 MHz at Mount]	
Adalaide near Bakersfield (Kern) CA]	
]	
DEBORAH KILLIAN]	FCC File No. 9301617966
]	
Conventional SMR (GX) Station WPCE285]	
851.6125 MHz at Mount Adalaide near]	
Bakersfield (Kern) CA]	
]	
CHRIS KILLIAN, DEBORAH KILLIAN, CARRIER]	
COMMUNICATIONS, AND/OR CARRIER]	
COMMUNICATIONS AND ELECTRONICS]	
]	
Licensee of and/or Applicant for various]	
facilities pursuant to Part 90 of the FCC Rules]	
and Regulations, 47 C.F.R. § 90.1 et seq.]	

To: Chief, Wireless Telecommunications Bureau

REPLY TO OPPOSITION

James A. Kay, Jr. ("Kay"), by his attorney, hereby replies to the *Opposition to Petition for License Revocation Proceedings* ("Opposition") filed by Smart SMR of California, Inc., a subsidiary of Nextel Communications, Inc. ("Nextel"), in support whereof, the following is respectfully shown:

A. Kay's Request is Not Untimely.

1. Nextel asserts that Kay's 22 October 1997 *Petition for Institution of License Revocation Proceedings* is untimely because Kay neither timely protested nor timely sought reconsideration of the grant of (a) the initial application by Chris Killian d/b/a Carrier Communications ("Killian") for the facility in 1993 or (b) Nextel's early 1997 application for

assignment of the authorization. *Opposition* at 2-3. But in attempting to mischaracterize Kay's pleading as an untimely protest or reconsideration, Nextel conveniently ignores that what Kay seeks is the institution of license revocation proceedings pursuant to Section 312 of the Communications Act, based on a compelling showing Killian obtained the authorization for Station WPCM497 by means of fraudulent misrepresentation to the Commission. Revocation proceedings may be instituted at any time during the course of a license term, even after the action issuing the license has become final.

2. Nextel further asserts that Kay's request is untimely because it relies, in part, on a finder's preference request that was dismissed by the Bureau in 1996. Nextel complains that "Kay fails to explain why he didn't participate in that finder's preference proceeding or seek reconsideration of the decision in a timely manner" and that "Kay's reliance on a dismissed SMR finder's preference claim comes nearly two years after the SMR finder's preference program has been abolished. *Opposition* at 3. As explained more fully in the following section of this reply, Kay does he seek reconsideration of or in any way challenge the dismissal of the finder's preference request. Nextel's timeliness objection is therefore misplaced.¹

B. Kay Is Not Seeking to Take Assignment of a Finder's Preference Request.

3. Nextel erroneously accuses Kay of attempting to take assignment of the Applied Technology Group, Inc. ("ATG") 1996 finder's preference request without demonstration of ATG's consent and without showing that ATG's rights in the finder's preference request have been assigned to Kay. These arguments totally misconstrue the significance of the finder's preference documents and the purpose for which they were offered. Kay does not seek or claim any rights under the finder's preference request, nor does he seek reconsideration of or in any way challenge the dismissal of the finder's preference. Rather, Kay points to the finder's preference request as support for certain factual allegations that were presented to the Commission. Those allegations, namely, that Killian did not timely construct and placed into

¹ Kay alternatively requested that his pleading be treated as an informal request for Commission action pursuant to Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41. As an informal request, the pleading would not be defective even assuming Nextel's untimeliness arguments were correct.